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A (Very) Short Guide to Writing Good Answers to Legal Hypotheticals

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A Few General Tips:


- (1) ALWAYS outline your answer before writing
- (2) Be sure to find all relevant facts in the hypothetical which may support a cause of action. Circle important words as you read through it. Facts are critical to your analysis.
- (3) Be sure to identify and discuss each element of each cause of action. Do not skip an element because it seems obvious – briefly explain WHY it is obvious
- (4) Be sure to identify and discuss the opposing argument for each element, to the extent there is one. Remember – both plaintiff and defendant will try to win the case. They will not concede any element if even a weak argument exists to the contrary.

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Structuring the Answer

Clarity & Organization are CRITICAL to Legal Writing.




 Paul and Mary have been dating for over two years. The two work together at Acme Company, where Paul is Mary's supervisor. It is a very casual, friendly office.

One month ago, Paul and Mary decided to end their relationship. It was a relatively easy break up, and neither party is very upset about it.


Yesterday, Paul called a meeting with all of his subordinates. After the meeting, several people stood around making jokes and small talk. At one point, Paul put his arm casually around Mary. Mary, looking uncomfortable, quickly walked away.

Is there any cause of action based on Paul's conduct?

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Step #1:
Identify (a) the Parties and (b) the Cause of Action.

Example: Mary has a cause of action against Paul for battery.

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Step #2:
Define the Legal Problem (Give the Appropriate "Rule" or Legal Definition)

Example: A battery occurs when a defendant intends to and does cause a harmful or offensive touching.

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Step #3

Analyze the Facts and Law Pertaining to EACH ELEMENT of the Cause of Action. Make sure to define any element that is questionable.

Repeat this process for any affirmative defenses.

Note:
Most points on an exam are awarded here.

Here, Paul satisfied the **touching** requirement when he placed his arm around Mary.

It is unclear whether Paul had the requisite **intent**. Intent is satisfied when the defendant desires to bring about the prohibited conduct or is substantially certain his actions will result in the prohibited conduct. Paul clearly desired to touch Mary when he put his arm around her. This is sufficient to establish intent in most jurisdictions. Some, however, require the defendant to desire the harmful or offensive nature of the touch, which is not clear from the facts given the prior relationship between the parties.

The touch was not **harmful**, so Mary will have to show that the touch was **offensive**, or offended a reasonable sense of human dignity in the absence of special knowledge. Mary would argue that a reasonable person would object to being hugged by a male supervisor, especially in front of colleagues. Paul is likely to argue that the hug was brief and that casual contact was routine in the office and between the two in the past, such that a reasonable person would not find the contact offensive.

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4. Give your Conclusion.

Example: Accordingly, Mary is likely to state a successful claim of battery.

IMPORTANT NOTE: Do NOT waste your time agonizing over the conclusion. Exam hypotheticals are written to be in the "grey" areas that could go either way. Very few points are awarded here. Focus on identifying the strengths and weakness of each side's position rather than reaching a definitive conclusion as to who will win the cause of action.
